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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN: 3245-AG47

Small Business Size Standards; Adoption of 2012 North American Industry Classification System for Size Standards

AGENCY: U.S. Small Business Administration.

ACTION: Interim final rule with request for comments.

SUMMARY: The U.S. Small Business Administration (SBA) is amending its Small Business Size Regulations to incorporate the Office of Management and Budget's (OMB) 2012 modifications of the North American Industry Classification System (NAICS), identified as NAICS 2012, into its table of small business size standards. NAICS 2012 has created 76 new industry codes and reused 13 NAICS 2007 industry codes with additional or modified content. Those 89 new and modified industry codes in NAICS 2012 impact 199 industry codes in NAICS 2007. The large majority of the changes involve renumbering and/or redefining NAICS 2007 codes in NAICS 2012, without warranting changes to their size standards. Therefore, for those industries SBA has transferred the size standards of the NAICS 2007 industry to the NAICS 2012 industry. SBA's adoption of NAICS 2012 will result in changes to small business size standards for 41 NAICS 2007 industries and one exception. This will also result in changes to NAICS industry titles for one Subsector and eight industries.

DATES: Effective date: This rule is effective October 1, 2012.

Comment date: Comments must be received on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by RIN 3245-AG47 by one of the following methods:

(1) Federal eRulemaking Portal: www.regulations.gov, following the instructions for submitting comments; or

(2) Mail/Hand Delivery/Courier: Khem R. Sharma, Ph.D., Chief, Office of Size Standards, 409 Third Street, SW, Mail Code 6530, Washington, DC 20416. SBA will not accept comments submitted by email to this interim final rule.

SBA will post all comments to this interim final rule on www.regulations.gov. If you wish to submit confidential business information (CBI) as defined in the User Notice at www.regulations.gov, you must submit such information to the U.S. Small Business Administration, Khem R. Sharma, Ph.D., Chief, Office of Size Standards, 409 Third Street, SW, Mail Code 6530, Washington, DC 20416, or send an email to sizestandards@sba.gov. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review your information and determine whether it will make the information public. Requests to redact or remove posted comments cannot be honored and the request to redact/remove posted comments will be posted as a comment. See the www.regulations.gov help section for information on how to make changes to your comments.

FOR FURTHER INFORMATION CONTACT: Carl Jordan, Office of Size Standards, by phone at (202) 205-6618 or by email at sizestandards@sba.gov.

SUPPLEMENTARY INFORMATION: SBA adopted NAICS 1997 industry definitions as a basis for its table of small business size standards, replacing the Standard Industrial

Classification (SIC) System, effective October 1, 2000 (65 FR 30836 (May 5, 2000)). Since then, OMB has issued three modifications to NAICS. SBA incorporated OMB's first modification, NAICS 2002 (66 FR 3825 (January 16, 2001)), into its table of size standards, effective October 1, 2002 (67 FR 52597 (August 13, 2002)). SBA incorporated the second modification, NAICS 2007 (71 FR 28532 (March 16, 2006)), into its table of size standards, effective October 1, 2007 (72 FR 49639 (August 29, 2007)). OMB published its third modification, NAICS 2012, in its "Notice of NAICS 2012 Final Decisions" in the Federal Register on August 17, 2011 (76 FR 51240). SBA is adopting the latest modifications into its table of small business size standards, as explained below, effective October 1, 2012.

NAICS 2012 has created 66 new industry codes with new content either by splitting or merging some of the industries in NAICS 2007. It has also assigned new codes to 10 industries in NAICS 2007 without changing their definition and title. NAICS 2012 has reused 13 NAICS 2007 industry codes (including six with the same industry title) with additional or modified definitions. All these changes have impacted 199 industries under NAICS 2007, of which 179 are in NAICS Sector 31-33, Manufacturing. The vast majority of changes among the manufacturing industries relate to aggregation of many small, detailed industries in NAICS 2007 into fewer industries in NAICS 2012. As a result, the number of 6-digit manufacturing codes has decreased from 472 in NAICS 2007 to 364 in NAICS 2012.

Complete information on the relationship between NAICS 2007 and NAICS 2012 is available on the U.S. Bureau of the Census (Census Bureau) website at <http://www.census.gov/eos/www/naics/>. The website provides detailed documentation

on establishment and implementation of NAICS 2012, including the August 17, 2011 “Notice of NAICS 2012 Final Decisions.” The Census Bureau’s website also provides concordances (i.e., correspondence tables) between SIC and NAICS 1997 and NAICS 2002, and between subsequent NAICS revisions.

How SBA determined the size standards for NAICS 2012 industries:

On October 22, 1999, SBA published in the Federal Register (64 FR 57188) a proposed rule to incorporate NAICS 1997 into its table of small business size standards. The proposed rule put forth guidelines or rules that SBA applied to convert the size standards from the SIC System to NAICS. The guidelines were intended to minimize the impact of applying a new industry classification system on SBA’s small business size standards. SBA received no negative comments to the proposed guidelines. SBA published a final rule on May 5, 2000 (corrected on September 5, 2000, 65 FR 53533) adopting the resulting table of size standards based on NAICS 1997, as proposed. SBA applied and adopted the same guidelines when it updated its table of size standards based on NAICS 2002 and NAICS 2007. In this interim final rule, SBA is, in most part, following the same guidelines in adopting NAICS 2012 for its table of size standards. Those guidelines are shown in Table 1, Guidelines (Rules) to Establish Size Standards for Industries under NAICS 2012, below.

Table 2, NAICS 2012 Codes Matched to NAICS 2007 Codes and Size Standards, matches 2012 NAICS Codes and size standards to the affected NAICS 2007 industry codes and parts and their current size standards. Table 2 includes only those NAICS 2007 industries or parts that are either reclassified into other industries or parts or assigned a new code under NAICS 2012.

Table 1
Guidelines (Rules) to Establish Size Standards for Industries under NAICS 2012

If the NAICS 2012 industry is composed of:			The size standard for the NAICS 2012 industry code will be:
1. One NAICS 2007 industry or part of one NAICS 2007 industry.			The same size standard as for the NAICS 2007 industry or part.
2. Two or more parts of an NAICS 2007 industry; two or more NAICS 2007 industries; parts of two or more NAICS 2007 industries; or one or more NAICS 2007 industries and part(s) of one or more NAICS 2007 industries,	and	2a. they all have the same size standard.	The same size standard as for the NAICS 2007 industries or parts.
		2b. they all have the same size measure (e.g., receipts, employees, etc.) but do not all have the same size standard.	The same size standard as for the NAICS 2007 industry or part that most closely matches the economic activity described by the NAICS 2012 industry. <u>or</u> The highest size standard among the NAICS 2007 industries and part(s) that comprise the NAICS 2012 industry.
		2c. they have different size measures (i.e., for example, some are based on receipts and others on employees) and hence do not all have the same size standard.	The same size standard as for the NAICS 2007 industry or part that most closely matches the economic activity described by the NAICS 2012 industry. <u>or</u> The highest size standard among the NAICS 2007 industries and part(s) that comprise the NAICS 2012 industry. To apply this rule, SBA converts all size standards to a single measure (e.g., receipts, employees, etc.) using the size measure for the NAICS 2007 industry or part(s) that most closely match the economic activity described by the NAICS 2012 industry or using the size measure that applies to most of the NAICS industries or parts comprising the NAICS 2012 industry.
3. One or more NAICS 2007 industries and/or parts that were categorized broadly under a particular NAICS Sector (such as Services, Retail Trade, Wholesale Trade, or Manufacturing) but are categorized under different Sectors in NAICS 2012. [Note: SBA is including this guideline to maintain consistency with prior rules, cited above. However, it does not apply to this interim final rule.]			SBA will (a) apply a size standard measure (<u>e.g.</u> , number of employees, annual receipts, etc.) that is typical of the NAICS Sector; and (b) apply the corresponding “anchor” size standard. The “anchor” size standards are \$7 million for Services and Retail Trade industries, 500 employees for Manufacturing, and 100 employees for Wholesale Trade (except for Federal procurement programs, where the size standard is 500 employees under the non-manufacturer rule).

Table 2

NAICS 2012 Codes Matched to NAICS 2007 Codes and Size Standards

NAICS 2012					NAICS 2007 (Industry parts in italics indicate that the NAICS 2007 industry is split to two or more NAICS 2012 industries)		
	Key to status code: * = Part of 2007 NAICS United States industry R = 2007 NAICS Industry code reused with different content N = new NAICS industry for 2012						
<u>NAICS 2012 Code</u>	<u>NAICS 2012 U.S. Industry Title</u>	<u>Status Code</u>	<u>Rule (Table 1)</u>	<u>NAICS 2012 Size Standard</u>	<u>NAICS 2007 Code</u>	<u>NAICS 2007 U. S. Industry Title</u>	<u>NAICS 2007 (current) Size Standard</u>
221114	Solar Electric Power Generation	N	1	4 million megawatt hours (see footnote 1)	*221119	Other Electric Power Generation - <i>solar electric power generation</i>	4 million megawatt hours (see footnote 1)
221115	Wind Electric Power Generation	N	1	4 million megawatt hours (see footnote 1)	*221119	Other Electric Power Generation - <i>wind electric power generation</i>	4 million megawatt hours (see footnote 1)
221116	Geothermal Electric Power Generation	N	1	4 million megawatt hours (see footnote 1)	*221119	Other Electric Power Generation - <i>geothermal electric power generation</i>	4 million megawatt hours (see footnote 1)
221117	Biomass Electric Power Generation	N	1	4 million megawatt hours (see footnote 1)	*221119	Other Electric Power Generation - <i>biomass electric power generation</i>	4 million megawatt hours (see footnote 1)
221118	Other Electric Power Generation	N	1	4 million megawatt hours (see footnote 1)	*221119	Other Electric Power Generation - <i>except solar, wind, geothermal, and biomass electric power generation</i>	4 million megawatt hours (see footnote 1)
238190	Other Foundation, Structure, and Building Exterior Contractors	R	2a	\$14 million	*238190	Other Foundation, Structure, and Building Exterior Contractors - <i>except building fireproofing contractors</i>	\$14 million

238310	Drywall and Insulation Contractors	R	2a	\$14 million	238310	Drywall and Insulation Contractors	\$14 million
					*238190	Other Foundation, Structure, and Building Exterior Contractors - <i>building fireproofing contractors</i>	\$14 million
					*238330	Flooring Contractors - <i>fireproof flooring construction contractors</i>	\$14 million
238330	Flooring Contractors	R	2a	\$14 million	*238330	Flooring Contractors - <i>except fireproof flooring construction contractors</i>	\$14 million
311224	Soybean and Other Oilseed Processing	N	2b	1,000 employees	311222	Soybean Processing	500 employees
					311223	Other Oilseed Processing	1,000 employees
311314	Cane Sugar Manufacturing	N	2b	750 employees	311311	Sugarcane Mills	500 employees
					311312	Cane Sugar Refining	750 employees
311351	Chocolate and Confectionery Manufacturing from Cacao Beans	N	1	500 employees	311320	Chocolate and Confectionery Manufacturing from Cacao Beans	500 employees
311352	Confectionery Manufacturing from Purchased Chocolate	N	1	500 employees	311330	Confectionery Manufacturing from Purchased Chocolate	500 employees
311710	Seafood Product Preparation and Packaging	N	2a	500 employees	311711	Seafood Canning	500 employees
					311712	Fresh and Frozen Seafood Processing	500 employees
311824	Dry Pasta, Dough, and Flour Mixes Manufacturing from Purchased Flour	N	2a	500 employees	311822	Flour Mixes and Dough Manufacturing from Purchased Flour	500 employees
					311823	Dry Pasta Manufacturing	500 employees
312230	Tobacco Manufacturing	N	2b	1,000 employees	312210	Tobacco Stemming and Redrying	500 employees
					312221	Cigarette Manufacturing	1,000 employees
					312229	Other Tobacco Product Manufacturing	500 employees

313110	Fiber, Yarn, and Thread Mills	N	2a	500 employees	313111	Yarn Spinning Mills	500 employees
					313112	Yarn Texturizing, Throwing, and Twisting Mills	500 employees
					313113	Thread Mills	500 employees
313220	Narrow Fabric Mills and Schiffli Machine Embroidery	N	2a	500 employees	313221	Narrow Fabric Mills	500 employees
					313222	Schiffli Machine Embroidery	500 employees
313240	Knit Fabric Mills	N	2a	500 employees	313241	Weft Knit Fabric Mills	500 employees
					313249	Other Knit Fabric and Lace Mills	500 employees
313310	Textile and Fabric Finishing Mills	N	2b	1,000 employees	313311	Broadwoven Fabric Finishing Mills	1,000 employees
					313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills	500 employees
314120	Curtain and Linen Mills	N	2a	500 employees	314121	Curtain and Drapery Mills	500 employees
					314129	Other Household Textile Product Mills	500 employees
314910	Textile Bag and Canvas Mills	N	2a	500 employees	314911	Textile Bag Mills	500 employees
					314912	Canvas and Related Product Mills	500 employees
314994	Rope, Cordage, Twine, Tire Cord, and Tire Fabric Mills	N	2b	1,000 employees	314991	Rope, Cordage, and Twine Mills	500 employees
					314992	Tire Cord and Tire Fabric Mills	1,000 employees
315110	Hosiery and Sock Mills	N	2a	500 employees	315111	Sheer Hosiery Mills	500 employees
					315119	Other Hosiery and Sock Mills	500 employees
315190	Other Apparel Knitting Mills	N	2a	500 employees	315191	Outerwear Knitting Mills	500 employees
					315192	Underwear and Nightwear Knitting Mills	500 employees
315210	Cut and Sew Apparel Contractors	N	2a	500 employees	315211	Men's and Boys' Cut and Sew Apparel Contractors	500 employees
					315212	Women's, Girls', and Infants' Cut and Sew Apparel Contractors	500 employees

315220	Men's and Boys' Cut and Sew Apparel Manufacturing	N	2a	500 employees	315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing	500 employees
					315222	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing	500 employees
					315223	Men's and Boys' Cut and Sew Shirt (except Work Shirt) Manufacturing	500 employees
					315224	Men's and Boys' Cut and Sew Trouser, Slack, and Jean Manufacturing	500 employees
					315225	Men's and Boys' Cut and Sew Work Clothing Manufacturing	500 employees
					315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing	500 employees
315240	Women's, Girls', and Infants' Cut and Sew Apparel Manufacturing	N	2a	500 employees	315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing	500 employees
					315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing	500 employees
					315233	Women's and Girls' Cut and Sew Dress Manufacturing	500 employees
					315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing	500 employees
					315239	Women's and Girls' Cut and Sew Other Outerwear Manufacturing	500 employees
					315291	Infants' Cut and Sew Apparel Manufacturing	500 employees
315280	Other Cut and Sew Apparel Manufacturing	N	2a	500 employees	315292	Fur and Leather Apparel Manufacturing	500 employees
					315299	All Other Cut and Sew Apparel Manufacturing	500 employees

315990	Apparel Accessories and Other Apparel Manufacturing	N	2a	500 employees	315991	Hat, Cap, and Millinery Manufacturing	500 employees
					315992	Glove and Mitten Manufacturing	500 employees
					315993	Men's and Boys' Neckwear Manufacturing	500 employees
					315999	Other Apparel Accessories and Other Apparel Manufacturing	500 employees
316210	Footwear Manufacturing	N	2b	1,000 employees	316211	Rubber and Plastics Footwear Manufacturing	1,000 employees
					316212	House Slipper Manufacturing	500 employees
					316213	Men's Footwear (except Athletic) Manufacturing	500 employees
					316214	Women's Footwear (except Athletic) Manufacturing	500 employees
					316219	Other Footwear Manufacturing	500 employees
316998	All Other Leather Good and Allied Product Manufacturing	N	2a	500 employees	316991	Luggage Manufacturing	500 employees
					316993	Personal Leather Good (except Women's Handbag and Purse) Manufacturing	500 employees
					316999	All Other Leather Good and Allied Product Manufacturing	500 employees
321999	All Other Miscellaneous Wood Product Manufacturing	R	2a	500 employees	321999	All Other Miscellaneous Wood Product Manufacturing	500 employees
					337129	Wood Television, Radio, and Sewing Machine Cabinet Manufacturing	500 employees
322219	Other Paperboard Container Manufacturing	N	2b	750 employees	322213	Setup Paperboard Box Manufacturing	500 employees
					322214	Fiber Can, Tube, Drum, and Similar Products Manufacturing	500 employees
					322215	Nonfolding Sanitary Food Container Manufacturing	750 employees

322220	Paper Bag and Coated and Treated Paper Manufacturing	N	2a	500 employees	322221	Coated and Laminated Packaging Paper Manufacturing	500 employees
					322222	Coated and Laminated Paper Manufacturing	500 employees
					322223	Coated Paper Bag and Pouch Manufacturing	500 employees
					322224	Uncoated Paper and Multiwall Bag Manufacturing	500 employees
					322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses	500 employees
					322226	Surface-Coated Paperboard Manufacturing	500 employees
322230	Stationery Product Manufacturing	N	2a	500 employees	322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing	500 employees
					322232	Envelope Manufacturing	500 employees
					322233	Stationery, Tablet, and Related Product Manufacturing	500 employees
323111	Commercial Printing (except Screen and Books)	R	2a	500 employees	323111	Commercial Gravure Printing	500 employees
					323110	Commercial Lithographic Printing	500 employees
					323112	Commercial Flexographic Printing	500 employees
					323114	Quick Printing	500 employees
					323115	Digital Printing	500 employees
					323116	Manifold Business Forms Printing	500 employees
					323118	Blankbook, Looseleaf Binders, and Devices Manufacturing	500 employees
					323119	Other Commercial Printing	500 employees
323120	Support Activities for Printing	N	2a	500 employees	323121	Tradebinding and Related Work	500 employees
					323122	Prepress Services	500 employees

325130	Synthetic Dye and Pigment Manufacturing	N	2b	1,000 employees	325131	Inorganic Dye and Pigment Manufacturing	1,000 employees
					325132	Synthetic Organic Dye and Pigment Manufacturing	750 employees
325180	Other Basic Inorganic Chemical Manufacturing	N	2b	1,000 employees	325181	Alkalis and Chlorine Manufacturing	1,000 employees
					325182	Carbon Black Manufacturing	500 employees
					325188	All Other Basic Inorganic Chemical Manufacturing	1,000 employees
325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing	N	2b	750 employees	325191	Gum and Wood Chemical Manufacturing	500 employees
					325192	Cyclic Crude and Intermediate Manufacturing	750 employees
325220	Artificial and Synthetic Fibers and Filaments Manufacturing	N	2a	1,000 employees	325221	Cellulosic Organic Fiber Manufacturing	1,000 employees
					325222	Noncellulosic Organic Fiber Manufacturing	1,000 employees
326199	All Other Plastics Product Manufacturing	R	2b	750 employees	326199	All Other Plastics Product Manufacturing	500 employees
					326192	Resilient Floor Covering Manufacturing	750 employees
327110	Pottery, Ceramics, and Plumbing Fixture Manufacturing	N	2b	750 employees	327111	Vitreous China Plumbing Fixture and China and Earthenware Bathroom Accessories Manufacturing	750 employees
					327112	Vitreous China, Fine Earthenware, and Other Pottery Product Manufacturing	500 employees
					327113	Porcelain Electrical Supply Manufacturing	500 employees

327120	Clay Building Material and Refractories Manufacturing	N	2b	750 employees	327121	Brick and Structural Clay Tile Manufacturing	500 employees
					327122	Ceramic Wall and Floor Tile Manufacturing	500 employees
					327123	Other Structural Clay Product Manufacturing	500 employees
					327124	Clay Refractory Manufacturing	500 employees
					327125	Nonclay Refractory Manufacturing	750 employees
331110	Iron and Steel Mills and Ferroalloy Manufacturing	N	2b	1,000 employees	331111	Iron and Steel Mills	1,000 employees
					331112	Electrometallurgical Ferroalloy Product Manufacturing	750 employees
331313	Alumina Refining and Primary Aluminum Production	N	2a	1,000 employees	331311	Alumina Refining	1,000 employees
					331312	Primary Aluminum Production	1,000 employees
331318	Other Aluminum Rolling, Drawing, and Extruding	N	2a	750 employees	331316	Aluminum Extruded Product Manufacturing	750 employees
					331319	Other Aluminum Rolling and Drawing	750 employees
331410	Nonferrous Metal (except Aluminum) Smelting and Refining	N	2b	1,000 employees	331411	Primary Smelting and Refining of Copper	1,000 employees
					331419	Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum)	750 employees
331420	Copper Rolling, Drawing, Extruding, and Alloying	N	2b	1,000 employees	331421	Copper Rolling, Drawing, and Extruding	750 employees
					331422	Copper Wire (except Mechanical) Drawing	1,000 employees
					331423	Secondary Smelting, Refining, and Alloying of Copper	750 employees
331523	Nonferrous Metal Die-Casting Foundries	N	2a	500 employees	331521	Aluminum Die-Casting Foundries	500 employees
					331522	Nonferrous (except Aluminum) Die-Casting Foundries	500 employees

331529	Other Nonferrous Metal Foundries (except Die-Casting)	N	2a	500 employees	331525	Copper Foundries (except Die-Casting)	500 employees
					331528	Other Nonferrous Foundries (except Die-Casting)	500 employees
332119	Metal Crown, Closure, and Other Metal Stamping (except Automotive)	N	2a	500 employees	332115	Crown and Closure Manufacturing	500 employees
					332116	Metal Stamping	500 employees
332215	Metal Kitchen Cookware, Utensil, Cutlery, and Flatware (except Precious) Manufacturing	N	2a	500 employees	332211	Cutlery and Flatware (except Precious) Manufacturing	500 employees
					332214	Kitchen Utensil, Pot, and Pan Manufacturing	500 employees
332216	Saw Blade and Handtool Manufacturing	N	2a	500 employees	332212	Hand and Edge Tool Manufacturing	500 employees
					332213	Saw Blade and Handsaw Manufacturing	500 employees
332613	Spring Manufacturing	N	2a	500 employees	332611	Spring (Heavy Gauge) Manufacturing	500 employees
					332612	Spring (Light Gauge) Manufacturing	500 employees
332994	Small Arms, Ordnance, and Ordnance Accessories Manufacturing	R	2b	1,000 employees	332994	Small Arms Manufacturing	1,000 employees
					332995	Other Ordnance and Accessories Manufacturing	500 employees
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing	R	2b	750 employees	332997	Industrial Pattern Manufacturing	500 employees
					332998	Enameled Iron and Metal Sanitary Ware Manufacturing	750 employees
					332999	All Other Miscellaneous Fabricated Metal Product Manufacturing	500 employees
333241	Food Product Machinery Manufacturing	N	1	500 employees	333294	Food Product Machinery Manufacturing	500 employees
333242	Semiconductor Machinery Manufacturing	N	1	500 employees	333295	Semiconductor Machinery Manufacturing	500 employees

333243	Sawmill, Woodworking, and Paper Machinery Manufacturing	N	2a	500 employees	333210	Sawmill and Woodworking Machinery Manufacturing	500 employees
					333291	Paper Industry Machinery Manufacturing	500 employees
333244	Printing Machinery and Equipment Manufacturing	N	1	500 employees	333293	Printing Machinery and Equipment Manufacturing	500 employees
333249	Other Industrial Machinery Manufacturing	N	2a	500 employees	333220	Plastics and Rubber Industry Machinery Manufacturing	500 employees
					333292	Textile Machinery Manufacturing	500 employees
					333298	All Other Industrial Machinery Manufacturing	500 employees
333316	Photographic and Photocopying Equipment Manufacturing	N	2b	1,000 employees	333315	Photographic and Photocopying Equipment Manufacturing	500 employees
					*334119	Other Computer Peripheral Equipment Manufacturing - <i>digital camera manufacturing</i>	1,000 employees
333318	Other Commercial and Service Industry Machinery Manufacturing	N	2b	1,000 employees	333311	Automatic Vending Machine Manufacturing	500 employees
					333312	Commercial Laundry, Drycleaning, and Pressing Machine Manufacturing	500 employees
					333313	Office Machinery Manufacturing	1,000 employees
					333319	Other Commercial and Service Industry Machinery Manufacturing	500 employees
333413	Industrial and Commercial Fan and Blower and Air Purification Equipment Manufacturing	N	2a	500 employees	333411	Air Purification Equipment Manufacturing	500 employees
					333412	Industrial and Commercial Fan and Blower Manufacturing	500 employees

333517	Machine Tool Manufacturing	N	2a	500 employees	333512	Machine Tool (Metal Cutting Types) Manufacturing	500 employees
					333513	Machine Tool (Metal Forming Types) Manufacturing	500 employees
333519	Rolling Mill and Other Metalworking Machinery Manufacturing	N	2a	500 employees	333516	Rolling Mill Machinery and Equipment Manufacturing	500 employees
					333518	Other Metalworking Machinery Manufacturing	500 employees
334118	Computer Terminal and Other Computer Peripheral Equipment Manufacturing	N	2a	1,000 employees	334113	Computer Terminal Manufacturing	1,000 employees
					*334119	Other Computer Peripheral Equipment Manufacturing - <i>except digital camera manufacturing</i>	1,000 employees
334416	Capacitor, Resistor, Coil, Transformer, and Other Inductor Manufacturing	R	2a	500 employees	334416	Electronic Coil, Transformer, and Other Inductor Manufacturing	500 employees
					334414	Electronic Capacitor Manufacturing	500 employees
					334415	Electronic Resistor Manufacturing	500 employees
334419	Other Electronic Component Manufacturing	R	2a	750 employees	334419	Other Electronic Component Manufacturing	500 employees
					334411	Electron Tube Manufacturing	750 employees
334519	Other Measuring and Controlling Device Manufacturing	R	2a	500 employees	334519	Other Measuring and Controlling Device Manufacturing	500 employees
					334518	Watch, Clock, and Part Manufacturing	500 employees
334614	Software and Other Prerecorded Compact Disc, Tape, and Record Reproducing	N	2b	750 employees	334611	Software Reproducing	500 employees
					334612	Prerecorded Compact Disc (except Software), Tape, and Record Reproducing	750 employees

335210	Small Electrical Appliance Manufacturing	N	2a	750 employees	335211	Electric Housewares and Household Fan Manufacturing	750 employees
					335212	Household Vacuum Cleaner Manufacturing	750 employees
336310	Motor Vehicle Gasoline Engine and Engine Parts Manufacturing	N	2b	750 employees	336311	Carburetor, Piston, Piston Ring, and Valve Manufacturing	500 employees
					336312	Gasoline Engine and Engine Parts Manufacturing	750 employees
336320	Motor Vehicle Electrical and Electronic Equipment Manufacturing	N	2b	750 employees	336321	Vehicular Lighting Equipment Manufacturing	500 employees
					336322	Other Motor Vehicle Electrical and Electronic Equipment Manufacturing	750 employees
336390	Other Motor Vehicle Parts Manufacturing	N	2a	750 employees	336391	Motor Vehicle Air-Conditioning Manufacturing	750 employees
					336399	All Other Motor Vehicle Parts Manufacturing	750 employees
339910	Jewelry and Silverware Manufacturing	N	2a	500 employees	339911	Jewelry (except Costume) Manufacturing	500 employees
					339912	Silverware and Hollowware Manufacturing	500 employees
					339913	Jewelers' Material and Lapidary Work Manufacturing	500 employees
					339914	Costume Jewelry and Novelty Manufacturing	500 employees
339930	Doll, Toy, and Game Manufacturing	N	2a	500 employees	339931	Doll and Stuffed Toy Manufacturing	500 employees
					339932	Game, Toy, and Children's Vehicle Manufacturing	500 employees

339940	Office Supplies (except Paper) Manufacturing	N	2a	500 employees	339941	Pen and Mechanical Pencil Manufacturing	500 employees
					339942	Lead Pencil and Art Good Manufacturing	500 employees
					339943	Marking Device Manufacturing	500 employees
					339944	Carbon Paper and Inked Ribbon Manufacturing	500 employees
423620	Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers	R	2a	100 employees	*423620	Electrical and Electronic Appliance, Television, and Radio Set Merchant Wholesalers - <i>except electric water heaters</i>	100 employees
					*423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers - <i>gas household appliances (except gas water heaters)</i>	100 employees
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	R	2a	100 employees	*423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers - <i>except gas household appliances (except gas water heaters)</i>	100 employees
					*423620	Electrical and Electronic Appliance, Television, and Radio Set Merchant Wholesalers - <i>electric water heaters</i>	100 employees
441228	Motorcycle, ATV, and All Other Motor Vehicle Dealers	N	2b	\$30 million	441221	Motorcycle, ATV, and Personal Watercraft Dealers	\$30 million
					441229	All Other Motor Vehicle Dealers	\$7 million
					(exception)	Including, Aircraft Dealers, Retail (exception to NAICS 441229 in table of size standards)	\$25.5 million
443141	Household Appliance Stores	N	1	\$10 million	443111	Household Appliance Stores	\$10 million

443142	Electronics Stores	N	2b	\$30 million	443112	Radio, Television, and Other Electronics Stores	\$25.5 million
					443120	Computer and Software Stores	\$25.5 million
					443130	Camera and Photographic Supplies Stores	\$19 million
					451220	Prerecorded Tape, Compact Disc, and Record Stores	\$30 million
454310	Fuel Dealers	N	2c	50 employees	454311	Heating Oil Dealers	50 employees
					454312	Liquefied Petroleum Gas (Bottled Gas) Dealers	50 employees
					454319	Other Fuel Dealers	\$7 million
722511	Full-Service Restaurants	N	1	\$7 million	722110	Full-Service Restaurants	\$7 million
722513	Limited-Service Restaurants	N	1	\$10 million	722211	Limited-Service Restaurants	\$10 million
722514	Cafeterias, Grill Buffets, and Buffets	N	1	\$25.5 million	722212	Cafeterias, Grill Buffets, and Buffets	\$25.5 million
722515	Snack and Nonalcoholic Beverage Bars	N	1	\$7 million	722213	Snack and Nonalcoholic Beverage Bars	\$7 million

Changes in size standards resulting from SBA's adoption of NAICS 2012

As shown above in Table 2, NAICS 2012 Codes Matched to NAICS 2007 Codes and Size Standards, most of the size standards for the affected NAICS 2007 industries are not impacted and therefore remain unchanged under NAICS 2012. The vast majority of the changes consist of revised industry titles or the reclassification of one or more NAICS 2007 industries or parts into other industries or parts in NAICS 2012 without impacting their size standards.

As shown in Table 2, the adoption of the NAICS 2012 modification leads to a revision to the current size standard for 42 NAICS 2007 industries or parts. SBA applied the guidelines in Table 1 to update the size standards for industries in NAICS 2007 to NAICS 2012. This resulted in increases to the size standard for 40 NAICS 2007 industries (including 36 in Manufacturing) and one exception, and a change to the size standard from average annual receipts to number of employees for one industry. Specifically, the \$25.5 million size standard for Aircraft Dealers, an exception under NAICS (2007) 441229, All Other Motor Vehicle Dealers, is no longer necessary. NAICS (2012) 441228, Motorcycle, ATV, and All Other Motor Vehicle Dealers, includes aircraft dealers, for which SBA is adopting a \$30 million size standard. In addition, the small business size standards for both NAICS (2007) 454311, Heating Oil Dealers, and NAICS (2007) 454312, Liquefied Petroleum Gas (Bottled Gas) Dealers, are 50 employees. However, the size standard for NAICS (2007) 454319, Other Fuel Dealers, is \$7 million. Under NAICS 2012, a single NAICS industry, namely 454310, Fuel Dealers, includes all three activities, and 50 employees is therefore the appropriate size standard. In all cases,

the adopted size standards were based on the correspondence between NAICS 2007 and NAICS 2012 industry definitions.

Changes in industry titles resulting from SBA’s adoption of NAICS 2012

In addition to changing industry definitions and codes, NAICS 2012 has adopted several NAICS industry title changes to more clearly describe the existing content of industries. These title changes do not change the content or NAICS code of industries, but rather refine how they are described. The title changes affecting the NAICS industry titles in SBA’s table of size standards are shown in Table 3, Industry Title Changes in NAICS 2012. Because the title changes do not alter NAICS industry codes or definitions, size standards are not affected. SBA adopts NAICS 2012 industry titles for its table of size standards.

Table 3
Title Changes in NAICS 2012

NAICS	NAICS 2012 Title	NAICS 2007 Title
Subsector 112	Animal Production and Aquaculture	Animal Production
236115	New Single-family Housing Construction (Except For-Sale Builders)	New Single-family Housing Construction (Except Operative Builders)
236116	New Multifamily Housing Construction (except For-Sale Builders)	New Multifamily Housing Construction (except Operative Builders)
236117	New Housing For-Sale Builders	New Housing Operative Builders
334613	Blank Magnetic and Optical Recording Media Manufacturing	Magnetic and Optical Recording Media Manufacturing
541850	Outdoor Advertising	Display Advertising
623110	Nursing Care Facilities (Skilled Nursing Facilities)	Nursing Care Facilities

623210	Residential Intellectual and Developmental Disability Facilities	Residential Mental Retardation Facilities
623312	Assisted Living Facilities for the Elderly	Homes for the Elderly

Other Considerations: Factoryless Goods Producers

Under NAICS 2012 “Factoryless Goods Producers” (FGPs) are defined as manufacturers that outsource manufacturing transformation activities (i.e., the actual physical, chemical or mechanical transformation of inputs into new outputs) to specialized establishments, both foreign and domestic. See 76 FR 51240 (August 17, 2011). An FGP also undertakes all of the entrepreneurial steps and arranges for all required capital, labor, and material inputs required for outsourced companies to make a good. The Economic Classification Policy Committee (ECPC) studied the issue of how to categorize FGPs in NAICS and provided guidance for consistent classification of manufacturing outsourcing establishments across various Federal statistical programs. The ECPC recommended classification of establishments that bear the overall responsibility and risk for bringing together all processes necessary for the production of a good in the manufacturing sector, even if the actual transformation is 100 percent outsourced. The ECPC’s full recommendation is available at http://www.bea.gov/about/pdf/ECPC_Recommendation_for_Classification_of_Outourcing_1.pdf. OMB accepted the ECPC’s recommendation that FGPs be classified in manufacturing, and therefore be included for statistical purposes in manufacturing under NAICS 2012.

Although this classification of FGPs changes the traditional definition of manufacturing for statistical purposes, SBA's current regulations for Federal government procurement will continue to apply. In other words, the NAICS 2012 definition of manufacturing includes FGPs, but it does not affect eligibility for Federal procurement programs when a concern must be small to receive available benefits and preferences as a small business. Specifically, the Small Business Act and SBA's regulations generally require that an offeror on a supply contract set aside for small businesses, including 8(a), small businesses located in Historically Underutilized Business Zones (HUBZones), service-disabled veteran-owned small businesses (SDVOSB) and woman-owned small businesses (WOSB), provide the product of a small business made in the United States. Generally, a manufacturer must perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials. 15 U.S.C. 637(a)(14)(A)(ii), 644(o)(1)(B), and 13 CFR 125.6. For size purposes, there can be only one manufacturer of the end item being acquired. The manufacturer is the concern which, with its own facilities, performs the primary activities in transforming inorganic or organic substances, including the assembly of parts and components, into the end item being acquired. The end item must possess characteristics which, as a result of mechanical, chemical or human action, it did not possess before the original substances, parts or components were assembled or transformed. The end item may be finished and ready for utilization or consumption, or it may be semi-finished as a raw material to be used in further manufacturing. Firms that perform only minimal operations upon the item being procured do not qualify as manufacturers of the end item. In addition, firms that add substances, parts, or components to an existing end item to modify its performance

will not be considered the end item manufacturer where those identical modifications can be performed by and are available from the manufacturer of the existing end item.

13 CFR 121.406(b)(2). Accordingly, FGPs that do not comply with these requirements will not qualify as small for Federal procurement programs. However, none of these requirements precludes an FGP from qualifying as a nonmanufacturer when it meets the requirements of 13 CFR 121.406. Under this regulatory provision, for a small business set aside supply contract (including 8(a), SDVO and WOSB, but not HUBZone), SBA can waive the requirement that an offeror supply the product of a small business made in the United States if no small business manufacturers exist.

Alternatives to adopting NAICS 2012 that SBA considered:

SBA considered retaining the NAICS 2007 industry codes as the basis for small business size standards. That would, however, lead to inconsistency among Federal agencies that adopt NAICS 2012 for their statistical and other programs. OMB stated in its August 17, 2011 “Notice of NAICS 2012 Final decisions” that “Federal statistical establishment data published for reference years beginning on or after January 1, 2012, should be published using the 2012 NAICS United States codes.” SBA is not a statistical agency, but uses the establishment data collected from other Federal agencies, such as the Economic Census data from the Bureau of the Census for its size standards analysis. If SBA does not adopt NAICS 2012, it will not be able to analyze and evaluate small business size standards adequately and accurately because the forthcoming Economic Census data based on NAICS 2012 industries will not be compatible with NAICS 2007 industries. Without useful data, SBA cannot properly evaluate industry structure and its effect on small business size standards.

Request for comments:

SBA welcomes the public to comment on this interim final rule. If SBA adopts NAICS 2012 for its table of size standards either as outlined in this rule or with modifications, it will publish a final rule. The final rule will address any comments received and explain the basis for the Agency's final decision. If SBA receives substantive comments supporting size standards that it has not adopted in this interim final rule, and if SBA agrees with those comments, SBA will modify the size standards in its final rule accordingly.

Justification for Interim Final Rule

In general, SBA publishes a rule for public comment before issuing a final rule in accordance with the Administrative Procedure Act (APA) and SBA regulations. 5 U.S.C. 553 and 13 CFR 101.108, respectively. The APA provides an exception to this standard rulemaking process, where an agency finds good cause to adopt a rule without prior public participation. 5 U.S.C. 553(b)(B). The good cause requirement is satisfied when prior public participation is impracticable, unnecessary, or contrary to the public interest. Under such circumstances, an agency may publish an interim final rule without soliciting public comment.

To reiterate, the changes adopted in this interim rule reflect the NAICS 2012 modifications issued by OMB in August 2011. The NAICS 2012 modifications were adopted after careful consideration of the public comments OMB received in response to two Federal Register notices (published on 1/7/2009 and 5/12/2010) detailing the proposed modifications. It is neither necessary nor in the public's interest to revisit the

modifications in this rule, after such an extensive comment process. In addition, as discussed further below, in compliance with OMB's direction, this rule necessarily takes effect on October 1, 2012. It would therefore be impractical to solicit public participation prior to implementing the changes outlined in this rule. We note that this rule does provide an opportunity for the public to comment on the changes. Accordingly, SBA finds that good cause exists to publish this as an interim final rule.

Justification for the October 1, 2012 Effective Date

SBA's small business size standards matched to NAICS 2012 will be effective on October 1, 2012, and will apply to all solicitations issued on or after that date, for the following reasons:

1. OMB stated in its August 17, 2011 "Notice of NAICS 2012 Final decisions" that "Federal statistical establishment data published for reference years beginning on or after January 1, 2012, should be published using the NAICS 2012 United States codes." SBA is not a statistical agency, but it uses the establishment data collected from other Federal agencies, such as the Economic Census data from the U.S. Bureau of the Census for its size standards analysis. Similarly, other Federal program databases, such as the Federal Procurement Data System – Next Generation (FPDS-NG) and Central Contractor Registration (CCR), are based on NAICS codes from SBA's table of size standards, which is currently based on NAICS 2007. If SBA does not adopt NAICS 2012 for its table of size standards, it will result in inconsistency among various Federal databases. October 1, 2012 is the start of the new Federal Government fiscal year following OMB's adoption of NAICS 2012 effective January 1, 2012, and is consistent with SBA's

adoption of previous NAICS revisions effective at the start of the next fiscal year after the OMB's effective date.

2. With the updated size standards based on NAICS 2012, Federal agencies that use NAICS and SBA's size standards could collect data on their small business programs using the latest NAICS industry definitions. Such data will be comparable and consistent with future Federal statistics that will be based on NAICS 2012 industry codes. Using comparable data enhances the credibility of program and industry analyses.

3. With the October 1, 2012 effective date, Federal agencies that use NAICS and SBA's small business size standards for their programs will have sufficient time to plan and implement the updated size standards, and assess its impact on their programs.

4. To establish, review, and revise, where necessary, small business size standards, SBA uses a special tabulation of industry data that the Agency obtains from the Census Bureau based on its quinquennial Economic Census of U.S. industries and businesses. The next tabulation that SBA will obtain from the Census Bureau will be based on the 2012 Economic Census. Because the 2012 Economic Census and special tabulation will be based on NAICS 2012 industry definitions, SBA needs to use NAICS 2012 as the basis for its table of small business size standards.

5. For the above reasons, it is important that SBA update its size standards to NAICS 2012 prior to the beginning of the next fiscal year. Issuing a proposed rule under the normal rulemaking making process would take considerably more time to implement this action.

Compliance with Executive Orders 12866, 13563, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C., Ch. 35) and the Regulatory Flexibility Act (5 U.S.C. 601-612)
Executive Order 12866

OMB has determined that this interim final rule is not a “significant regulatory action” for purposes of Executive Order 12866. This interim final rule incorporates the latest revisions of the NAICS, which SBA uses to identify industries in the United States economy for purposes of establishing small business size standards. As discussed in the Supplementary Information above, the size standard of some activities would change because of the NAICS revisions. However, all businesses currently defined as small under the NAICS 2002 industries will continue to be small under the NAICS 2012 industries, as indicated. The interim final rule also affects Federal Government programs that provide a benefit for small businesses. SBA welcomes comments describing the impact on small businesses of the size standard changes resulting from this rule. In order to help explain the need of this rule and the rule’s potential benefits and costs, SBA is providing a Cost Benefit Analysis in this section of the rule. This is also not a “major rule” under the Congressional Review Act, 5 U.S.C. 800.

Cost Benefit Analysis:

1. Is there a need for the regulatory action?

SBA believes that revising its small business size standards based on NAICS 2012 is in the best interests of small businesses. SBA’s mission is to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To assist the intended beneficiaries of these programs effectively, SBA establishes distinct definitions to determine which businesses

are deemed small businesses. NAICS 2012 provides the latest industry definitions. The Small Business Act (The Act) delegates to SBA's Administrator the responsibility for establishing definitions for small business. The Act also requires that small business definitions vary to reflect industry differences. 15 USC 632(a). By analyzing and reviewing size standards based on the latest and most comprehensive NAICS definitions, SBA can more accurately and appropriately fulfill its mandate. If SBA does not use the latest industry definitions, size standards would not accurately reflect differences among industries. In addition, the Small Business Jobs Act of 2010 (Jobs Act) requires the Administrator to review one-third of all size standards within each 18-month period from the date of its enactment and to review all size standards at least every five years thereafter. For this, SBA needs data based on the latest NAICS industry definitions available. In this interim final rule, SBA mostly followed the same guidelines that the Agency used for adopting prior NAICS industry modifications, as spelled out under the supplemental information section, above. Size standards based on NAICS 2012 industry definitions and corresponding data will be more accurate and serve SBA's mission more effectively.

2. What are the potential benefits and costs of this regulatory action?

As stated previously, the vast majority of the changes from NAICS 2007 to NAICS 2012 consist of revision to industry titles or reclassification of one or more NAICS 2007 industries or parts into other industries or parts in NAICS 2012 without impacting their size standards. The adoption of NAICS 2012 has resulted in increases to size standards for 40 NAICS 2007 industries and one sub-industry ("exception") and the change of size standard from average annual receipts to number of employees for one

industry. The most significant benefit to businesses as a result of these changes is gaining eligibility for Federal small business assistance programs, including SBA's financial assistance programs, economic injury disaster loans, and Federal procurement opportunities intended for small businesses. Federal small business programs provide targeted opportunities for small businesses under SBA's various business development and contracting programs. These include the 8(a) Business Development program and programs benefiting small businesses located in HUBZones, WOSBs, and SDVOSBs. Other Federal agencies also may use SBA's size standards for a variety of regulatory and program purposes. These programs help small businesses become more knowledgeable, stable, and competitive. Some businesses that exceed current size standards will become small under the higher size standards resulting from the adoption of NAICS 2012. However, SBA cannot estimate with precision the number of businesses that become small because there are no data based on NAICS 2012 industry definitions. Based on the 2007 Economic Census data for the affected NAICS 2007 industries, SBA estimates that approximately 300 additional businesses would gain small business status under the revised size standards. That represents a 0.9 percent increase to the number of small businesses in the affected industries.

The benefits of adopting NAICS 2012 and the resulting revisions to size standards will accrue to three groups in the following ways: (1) some businesses that are above their current size standards may gain small business status, thereby becoming eligible to participate in Federal small business assistance programs; (2) growing small businesses that are close to exceeding the current size standards for their NAICS 2007 industry may retain their small business status under NAICS 2012, and can continue participating in

the programs; and (3) Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs because they will be able to define more accurately the principal purposes of their procurements under NAICS 2012, as required by 12 CFR 121.402(b).

Additional firms gaining small business status under NAICS 2012 may receive more Federal contracts, but their number and value cannot be estimated because of lack of procurement data based on NAICS 2012. Added procurement competition may also result in lower prices to the Government for procurements reserved for small businesses, although SBA cannot quantify this benefit.

Under SBA's 7(a) Loan and 504 Loan Programs, SBA will be able to guarantee more loans, although, in this case too, the number and amount cannot be estimated accurately. Based on data for fiscal years 2008 to 2010, SBA estimates that about 2 to 5 additional loans, totaling about \$1.0 million to \$1.3 million in Federal loan guarantees could be made to these newly defined small businesses under the revised size standards. Under the Jobs Act, SBA can now guarantee substantially larger loans than in the past. In addition, the Jobs Act established an alternative size standard for SBA's 7(a) and 504 Loan Programs for those applicants that do not meet the size standards for their industries. That is, under the Jobs Act, if a firm applies for a 7(a) or 504 loan but does not meet the size standard for its industry, it might still qualify if, including its affiliates, it has a tangible net worth that does not exceed \$15 million and also has an average net income after Federal income taxes (excluding any carry-over losses) for its preceding two completed fiscal years that does not exceed \$5.0 million. Thus, increasing the size standards may result in an increase in small business guaranteed loans to small businesses

in these industries, but it would be impractical to try to estimate the extent of their number and the total amount loaned.

Newly defined small businesses will also benefit from SBA's Economic Injury Disaster Loan (EIDL) Program. Since this program is contingent on the occurrence and severity of a disaster, SBA cannot make a meaningful estimate of future EIDL benefit.

To the extent that newly defined small firms under NAICS 2012 could become active in Federal procurement programs, this may entail some additional administrative costs to the Federal Government associated with additional bidders for Federal small business procurement opportunities. More firms may seek SBA's guaranteed loans. More will be eligible to enroll in the CCR Dynamic Small Business Search database. Since more firms will qualify as small, more may also seek certification as 8(a) or HUBZone firms, or qualify as WOSB, SDVOSB, and/or small disadvantaged business (SDB) status. However, it is important to point out that most business entities that are already registered in CCR will not be required to update their CCR profiles. However, it will be incumbent on registrants to review their profiles to ensure that they have correct NAICS codes. CCR requires that registered companies update review and update their profiles annually, and therefore, businesses will need to pay particular attention to the changes to determine if they might affect them. They will also have to verify and update, if necessary, their Online Representations and Certification (ORCA) certifications. Among businesses in this group seeking SBA assistance, there could be some additional costs associated with compliance and verification of small business status and protests of small business status. These added costs are likely to be minimal because mechanisms are already in place to handle these administrative requirements.

The costs to the Federal Government may be higher on some Federal contracts under the higher revised size standards under NAICS 2012. With more businesses defined as small, Federal agencies might choose to set aside more contracts for competition among small businesses rather than use full and open competition. The movement from unrestricted to set-aside contracting will likely result in competition among fewer total bidders, although there will be more small businesses in the bidding pool eligible to submit offers. In addition, higher costs may result when additional full and open contracts are awarded to HUBZone businesses because of a price evaluation preference. The additional costs associated with fewer bidders, however, will likely be minor since, as a matter of law, procurements may be set aside for small businesses or reserved for the 8(a), HUBZone, WOSB, or SDVOSB Programs only if awards are expected to be made at fair and reasonable prices.

The revised size standards may have some distributional effects among large and small businesses. Although SBA cannot estimate with certainty the actual outcome of gains and losses among small and large businesses, there are several likely impacts. There may be a transfer of some Federal contracts from large businesses to small businesses. Large businesses may have fewer Federal contract opportunities as Federal agencies decide to set aside more Federal contracts for small businesses. In addition, some agencies may award more Federal contracts to HUBZone concerns instead of large businesses since HUBZone concerns may be eligible for price evaluation adjustments when they compete on full and open bidding opportunities. Similarly, currently defined small businesses may receive fewer Federal contracts due to the increased competition from more businesses defined as small under NAICS 2012. This transfer may be offset

by more Federal procurements set aside for all small businesses. The number of newly defined and expanding small businesses that are willing and able to sell to the Federal Government will limit the potential transfer of contracts away from large and small businesses under the existing size standards. The SBA cannot estimate with precision the potential distributional impacts of these transfers.

SBA's adopting NAICS 2012 and revising its size standards accordingly is consistent with SBA's statutory mandate to assist small business. This regulatory action promotes the Administration's objectives. One of SBA's goals in support of the Administration's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, Government contracts, and management and technical assistance. Appropriate size standards ensure that intended beneficiaries have access to small business programs designed to assist them. The Small Business Act states that "the Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries." 15 U.S.C. 632(a)(3). To do that, SBA should use the most current and relevant industry definitions. NAICS 2012 provides the most current and relevant industry definitions.

Executive Order 13563

A description of the need for this regulatory action and benefits and costs associated with this action including possible distributions impacts that relate to Executive Order 13563 are included above in the Cost Benefit Analysis.

To engage interested parties in this action, SBA has advised Federal agencies that it intends to adopt NAICS 2012 effective October 1, 2012, consistent with other size

standard updates based on prior NAICS updates. SBA also has advised Federal agencies to continue using NAICS 2007 until SBA updates its size standards to NAICS 2012.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this interim final rule will not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, SBA has determined that this interim final rule has no Federalism implications warranting preparation of a Federalism assessment.

Paperwork Reduction Act

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this interim final rule would not impose any new reporting or record keeping requirements.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires an initial and final regulatory flexibility analysis only when 5 U.S.C. 553 requires publication of a notice of proposed rulemaking. See 5 U.S.C. 603(a), 604(a). As discussed above, SBA has found good cause under 5 U.S.C. 553(b)(3)(B) to conclude that, with respect to this interim final rule, publication of a notice of proposed rulemaking is impracticable, unnecessary

and not in the public's best interest. Accordingly, SBA is not required to perform an initial or final regulatory flexibility analysis for this interim final rule.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs - business, Individuals with disabilities, Loan programs - business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, SBA amends 13 CFR Part 121 as follows:

PART 121 – SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for Part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 662, 694a(9).

2. In § 121.201, amend the table, “Small Business Size Standards by NAICS Industry” as follows:
 - a. Revise the industry title of the entry Subsector 112 to read “Animal Production and Aquaculture”;
 - b. Remove the entry for 221119;
 - c. Add entries for 221114 through 221118;
 - d. Revise the industry title of the entry 236115 to read “New Single-Family Housing Construction (except For-Sale Builders)”;
 - e. Revise the industry title of the entry 236116 to read “New Multifamily Housing Construction (except For-Sale Builders)”;

- f. Revise the industry title of the entry 236117 to read “New Housing For-Sale Builders.”
- g. Remove the entries for 311222 and 311223;
- h. Add an entry for 311224;
- i. Remove the entries for 311311, 311312, 311313, 311320, 311330, and 311340,;
- j. Add entries for 311313, 311314, 311340, 311351, and 311352;
- k. Remove the entries for 311711 and 311712;
- l. Add an entry for 311710;
- m. Remove the entries for 311822 and 311823;
- n. Add an entry for 311824;
- o. Remove the entries for 312210, 312221, and 312229;
- p. Add an entry for 312230;
- q. Remove the entries for 313111, 313112, and 313113;
- r. Add an entry for 313110;
- s. Remove the entries for 313221 and 313222;
- t. Add an entry for 313220;
- u. Remove the entries for 313241, 313249, 313311, and 313312;
- v. Add entries for 313240 and 313310;
- w. Remove the entries for 314121, 314129, 314911, 314912, 314991, and 314992;
- x. Add entries for 314120, 314910, and 314994;
- y. Remove entries 315111, 315119, 315191, 315192, 315211, 315212, 315221 through 315225, 315228, 315231 through 315234, 315239, 315291, 315292, and 315999;

- z. Add entries 315110, 315190, 315210, 315220, 315240, 315280, and 315990;
- aa. Remove the entries for 316211, 316212, 316213, 316214, and 316219;
- bb. Add an entry for 316210;
- cc. Remove the entries for 316991, 316993, and 316999;
- dd. Add an entry of 316998;
- ee. Remove entries 322213 through 322215, 322221 through 322226, and 322231 through 322233;
- ff. Add entries for 322219, 322220, and 322230;
- gg. Remove the entry for 323110;
- hh. Revise the industry title of the entry 323111 to read “Commercial Printing (except Screen and Books)”;
- ii. Remove the entries for 323112, 323114, 323115, 323116, 323118, 323119, 323121, and 323122;
- jj. Add an entry for 323120;
- kk. Remove entries for 325131, 325132, 325181, 325182, 325188, 325191, and 325192;
- ll. Add entries for 325130, 325180, and 235194;
- mm. Remove the entries for 325221 and 325222;
- nn. Add an entry for 325220;
- oo. Remove the entry 326192;

- pp. Revise the entry for 326199;
- qq. Remove the entries 327111 through 327113 and 327121 through 327125;
- rr. Add entries for 327110 and 327120;
- ss. Remove the entries for 331111 and 331112;
- tt. Add an entry for 331110;
- uu. Remove the entries for 331311 and 331312;
- vv. Add an entry for 331313;
- ww. Remove entries 331316, 331319, 331411, 331419, and 331421 through 331423;
- xx. Add entries for 331318, 331410, and 331420;
- yy. Remove the entries for 331521 and 331522;
- zz. Add an entry for 331523;
- aaa. Remove the entries for 331525 and 331528;
- bbb. Add an entry for 331529;
- ccc. Remove the entries for 332115 and 332116;
- ddd. Add an entry for 332117
- eee. Remove the entries for 332211, 332212, 332213, and 332214;
- fff. Add entries for 332215 and 332216;
- ggg. Remove the entries for 332611 and 332612;
- hhh. Add an entry for 332613;

- iii. Revise the industry title of the entry 332994 to read “Small Arms, Ordnance, and Ordnance Accessories Manufacturing”;
- jjj. Remove the entries for 332995, 332997, and 33299;
- kkk. Revise the entry for 332999;
- lll. Remove entries for 333210, 333220, 333291 through 333295, and 333298;
- mmm. Add entries for 333241 through 333244 and 333249;
- nnn. Remove the entries for 333311, 333312, 333313, 333315, 333319, 333411, and 333412;
- ooo. Add entries for 333316, 333318, and 33413;
- ppp. Remove the entries for 333512, 333513, 333516, and 333518;
- qqq. Add entries for 333517 and 333519;
- rrr. Remove the entries for 334113 and 334119;
- sss. Add an entry for 334118;
- ttt. Remove the entries for 334411, 334414, and 334415;
- uuu. Revise the industry title of the entry for 334416 to read “Capacitor, Resistor, Coil, Transformer, and Other Inductor Manufacturing”;
- vvv. Remove the entries for 334518, 334611, and 334612;
- www. Revise the industry title of the entry for 334613 to read “Blank Magnetic and Optical Recording Media Manufacturing”;
- xxx. Add and entry for 334614;

- yyy. Remove the entries 335211 and 335212;
- zzz. Add an entry for 335210;
- aaaa. Remove the entries for 336311, 336312, 336321, and 336322;
- bbbb. Add entries for 336310 and 336320;
- cccc. Remove the entries for 336391 and 336399;
- dddd. Add an entry for 336390;
- eeee. Remove the entry for 337129;
- ffff. Remove the entries for 339911, 339912, 339913, and 339914;
- gggg. Add an entry for 339910;
- hhhh. Remove the entries for 339931, 339932, 339941, 339942, 339943, and
339944;
- iiii. Add entries for 339930 and 339940;
- jjjj. Revise the industry title of the entry for 423620 to read “Household Appliances,
Electric Housewares, and Consumer Electronics Merchant Wholesalers”;
- kkkk. Remove the entries for 441221 and 441229;
- llll. Add an entry for 441228;
- mmmm. Remove the entries for 443111, 443112, 443120, and 443130;
- nnnn. Add entries for 443141 and 443142;
- oooo. Remove the entry for 451220;

- pppp. Remove the entries for 454311, 454312, and 454319;
- qqqq. Add an entry for 454310;
- rrrr. Revise the industry title of the entry for 541850 to read “Outdoor Advertising”;
- ssss. Revise the industry title of the entry for 623110 to read “Nursing Care Facilities (Skilled Nursing Facilities)”;
- ttt. Revise the industry title of the entry for 623210 to read “Residential Intellectual and Development Disability Facilities”;
- uuuu. Revise the industry title of the entry for 623312 to read “Assisted Living Facilities for the Elderly”;
- vvvv. Remove the entries for 722110, 722211, 722212, and 722213;
- www. Add entries for 722511 and 722513 through 722515; and
- xxxx. Revise footnote 1 at the end of the table to read as follows:

The additions and revisions read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

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Small Business Size Standards by NAICS Industry

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Sector 11—Agriculture, Forestry, Fishing and Hunting			
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221114	Solar Electric Power Generation	(see footnote 1)	
221115	Wind Electric Power Generation	(see footnote 1)	
221116	Geothermal Electric Power Generation	(see footnote 1)	
221117	Biomass Electric Power Generation	(see footnote 1)	
221118	Other Electric Power Generation	(see footnote 1)	

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311224	Soybean and Other Oilseed Processing		1,000
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311313	Beet Sugar Manufacturing		750
311314	Cane Sugar Manufacturing		750
311340	Nonchocolate Confectionery Manufacturing		500
311351	Chocolate and Confectionery Manufacturing from Cacao Beans		500
311352	Confectionery Manufacturing from Purchased Chocolate		500

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311710	Seafood Product Preparation and Packaging		500
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311824	Dry Pasta, Dough, and Flour Mixes Manufacturing from Purchased Flour		500
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312230	Tobacco Manufacturing		1,000
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313110	Fiber, Yarn, and Thread Mills		500
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313220	Narrow Fabric Mills and Schiffli Machine Embroidery		500
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313240	Knit Fabric Mills		500
313310	Textile and Fabric Finishing Mills		1,000

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314120	Curtain and Linen Mills		500
314910	Textile Bag and Canvas Mills		500
314994	Rope, Cordage, Twine, Tire Cord, and Tire Fabric Mills		1,000

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315110	Hosiery and Sock Mills		500
315190	Other Apparel Knitting Mills		500
315210	Cut and Sew Apparel Contractors		500
315220	Men's and Boys' Cut and Sew Apparel Manufacturing		500
315240	Women's, Girls', and Infants' Cut and Sew Apparel Manufacturing		500
315280	Other Cut and Sew Apparel Manufacturing		500
315990	Apparel Accessories and Other Apparel Manufacturing		500

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316210	Footwear Manufacturing		1,000
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316998	All Other Leather Good and Allied Product Manufacturing		500
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322219	Other Paperboard Container Manufacturing		750
322220	Paper Bag and Coated and Treated Paper Manufacturing		500
322230	Stationery Product Manufacturing		500

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323120	Support Activities for Printing		500
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325130	Synthetic Dye and Pigment Manufacturing		1,000
325180	Other Basic Inorganic Chemical Manufacturing		1,000

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325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing		750
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325220	Artificial and Synthetic Fibers and Filaments Manufacturing		1,000
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326199	All Other Plastics Product Manufacturing		750
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327110	Pottery, Ceramics, and Plumbing Fixture Manufacturing		750
327120	Clay Building Material and Refractories Manufacturing		750

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331110	Iron and Steel Mills and Ferroalloy Manufacturing		1,000
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331313	Alumina Refining and Primary Aluminum Production		1,000
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331318	Other Aluminum Rolling, Drawing, and Extruding		750
331410	Nonferrous Metal (except Aluminum) Smelting and Refining		1,000
331420	Copper Rolling, Drawing, Extruding, and Alloying		1,000

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331523	Nonferrous Metal Die-Casting Foundries		500
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331529	Other Nonferrous Metal Foundries (except Die-Casting)		500
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332119	Metal Crown, Closure, and Other Metal Stamping (except Automotive)		500
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332215	Metal Kitchen Cookware, Utensil, Cutlery, and Flatware (except Precious) Manufacturing		500
332216	Saw Blade and Handtool Manufacturing		500

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332613	Spring Manufacturing		500
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332999	All Other Miscellaneous Fabricated Metal Product Manufacturing		750
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333241	Food Product Machinery Manufacturing		500
333242	Semiconductor Machinery Manufacturing		500
333243	Sawmill, Woodworking, and Paper Machinery Manufacturing		500
333244	Printing Machinery and Equipment Manufacturing		500
333249	Other Industrial Machinery Manufacturing		500

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333316	Photographic and Photocopying Equipment Manufacturing		1,000
333318	Other Commercial and Service Industry Machinery Manufacturing		1,000
333413	Industrial and Commercial Fan and Blower and Air Purification Equipment Manufacturing		500

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333517	Machine Tool Manufacturing		500
333519	Rolling Mill and Other Metalworking Machinery Manufacturing		500

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334118	Computer Terminal and Other Computer Peripheral Equipment Manufacturing		1,000
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334614	Software and Other Prerecorded Compact Disc, Tape, and Record Reproducing		750
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335210	Small Electrical Appliance Manufacturing		750
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336310	Motor Vehicle Gasoline Engine and Engine Parts Manufacturing		750
336320	Motor Vehicle Electrical and Electronic Equipment Manufacturing		750

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336390	Other Motor Vehicle Parts Manufacturing		750
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339910	Jewelry and Silverware Manufacturing		500
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339930	Doll, Toy, and Game Manufacturing		500
339940	Office Supplies (except Paper) Manufacturing		500

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441228	Motorcycle, ATV, and All Other Motor Vehicle Dealers	\$30.0	
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443141	Household Appliance Stores	\$10.0	
443142	Electronics Stores	\$30.0	

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454310	Fuel Dealers		50
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722511	Full-Service Restaurants	\$7.0	
722513	Limited-Service Restaurants	\$10.0	
722514	Cafeterias, Grill Buffets, and Buffets	\$25.5	
722515	Snack and Nonalcoholic Beverage Bars	\$7.0	

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Footnotes

¹ NAICS codes 221111, 221112, 221113, 221114, 221115, 221116, 221117, 221118, 221121, and 221122 – A firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.

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Dated: August 8, 2012

Karen G. Mills,
Administrator.

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